

## FINAL DRAFT DOCUMENT

### TOWN OF AMHERST TRUSTEES OF THE TRUST FUNDS POLICIES AND PROCEDURES

**Statement of Purpose:** The Trustees of the Town of Amherst Trust Funds, being duly elected or appointed officials, shall upon taking office assume certain duties and responsibilities as outlined by state statute (see RSA Title III, Chapter 31:19 thru 31:38a and Chapter 35:1 thru 35:18). The purpose of this document is to enumerate upon those duties and responsibilities with the establishment of appropriate policies and procedures to meet the fiduciary responsibilities of the office.

**Definition of Funds in Trust:** For purposes of clarification, there are four types of funds that can be created by Towns for the purpose of retention and preservation:

**General Funds:** Towns may take and hold in trust gifts, legacies, and devises made to them for the establishment, maintenance, and care of libraries, reading-rooms, schools, and other educational facilities, parks, cemeteries, and burial lots, the planting and care of shade and ornamental trees upon their highways and other public places, and for any other public purpose that is not foreign to their institution or incompatible with the objects of their organization.

**Trust Funds Created by the Town:** A town may at any annual or special meeting grant and vote such sums of money as it deems necessary to create trust funds for the maintenance and operation of the town; and any other public purpose that is not foreign to the town's institution or incompatible with the objects of its organization.

**Deferred Compensation Plan Trusts:** All eligible employers are authorized to adopt resolutions establishing deferred compensation plans for their employees under section 457(b) of the Internal Revenue Code; and, further, establishing trusts, custodial accounts, or annuity contracts described in section 401(f) of the Internal Revenue Code to receive all assets and income of deferred compensation plans for the exclusive benefit of employee and retiree participants and their beneficiaries as required by section 457(g) of the Internal Revenue Code.

**Funds for Cemeteries:** Towns shall take and hold in trust gifts, legacies and devises made to them for the care of cemeteries and burial lots when the terms of the gift, legacy or devise do not impose any liability upon the town beyond the amount of the gift, legacy or devise and the income thereof.

## **Duties of the Trustees**

**Custody:** The Trustees shall have custody and take control of all funds received or appropriated by the Town to be placed in trust in accordance with RSA 31:19 thru 31:20.

**Investment:** The trustees shall invest Trust Funds in accordance with RSA 31:25, and shall be limited to the following approved and authorized investment categories:

1. Deposits in any federally or state-chartered bank or association authorized to engage in a banking business in this state, or in deposits in any credit union in this state, or in state, county, town, city, school district, water and sewer district bonds and the notes of towns or cities in this state.
2. Stocks and bonds as are legal for investment by any bank or association chartered by this state to engage in a banking business; and in participation units in the public deposit investment pool established pursuant to RSA 383:22.
3. Obligations with principal and interest fully guaranteed by the United States government.
4. Mutual funds are also permitted if they are registered with the Securities and Exchange Commission, qualified for sale in the state of New Hampshire in accordance with the New Hampshire uniform securities act of the New Hampshire secretary of state's office, and which have in their prospectus a stated investment policy which is consistent with the investment policy adopted by the trustees of trust funds in accordance with this chapter

The Trustees shall bound and guided by the "**Prudent Investment Rule**", defined as "a prudent investment is one which a prudent man would purchase for his own investment having primarily in view the preservation of the principal and the amount and regularity of the income to be derived there from."

The trustees shall formally adopt an **Investment Policy** for all investments made by them or by their agents for any trust funds in their custody in conformance with the provisions of applicable statutes. Such investment policy shall be reviewed and confirmed at least annually. A copy of the investment policy shall be filed with the attorney general.

**Expenditures and Release:** Trust funds, or the income thereof, to be expended, shall, upon written request by the appropriate authority, be paid to trustees or agents of the town established to carry out the objects designated by such trusts, and, if there be no such trustees or agents, then such expenditures shall be made by the full board of town trustees. The Trustees shall have sole authority for the release of funds in trust. All authorizations shall be made in writing and signed by at least two of the elected Trustees within three days.

**Reports:** The trustees shall report annually to the attorney general any securities retained under the provisions of RSA 31 :25-a, which shall appear as an addendum to the annual report required to be filed under RSA 31:38.

**Audit and Publication of Reports:** The accounts of the trustees shall be audited annually by the auditor of the town, the securities shall be exhibited to the auditor, and he shall certify the facts found by his audit and the list of all securities held.

The trustees shall submit to the auditor a detailed statement of the securities held by them and the particular trust to which they belong, and exhibit to him a statement of all receipts and expenditures with proper vouchers. The legislative body of a town may authorize the printing of the reports of the trustees and of the auditor in summary form rather than in full detail in the annual town report. In a year in which a town accepts gifts, legacies and devises for any trust created, the trustees and auditor shall print the names of the donors and the value of such gifts, legacies and devises at the time of donation in the annual town report. Annually, the trustees shall review, sign and submit such reports as are required by the State and the attorney general.

**Engagement of Professional Assistance:** The Trustees may, at their discretion, hire or employ the trust department or departments of a bank or banks or a brokerage firm to assist in the management and investment of trust fund resources or to provide bookkeeping services in connection therewith or to do both. They may also place securities in the nominee name of a trust department or departments or a brokerage firm to facilitate transfers for such securities. In employing such trust departments, portfolio management departments, or investment advisors, the trustees may enter into contracts or agreements delegating the management of such trust funds to those departments subject to investment guidelines adopted by the trustees under applicable statutes and subject to at least quarterly review and approval of such management by the trustees.

## **Policies and Procedures**

**Organizational Meeting:** The Trustees shall meet annually, not more than 30 days after the Town elections for the purpose of electing a "chair" who shall be responsible for calling meetings of the Trustees.

**Meetings:** The Trustees shall meet at the call of the Chair, but not less than semi-annually for the following purposes:

1. Annual review and approval of the Investment Policy as required by RSA 31:25
2. Periodic review of the financial performance of the funds
3. Preparation of report as specified by law
4. The review of the performance of investment advisors
5. The conduct of business

In accordance with the public's right to know, the Trustees shall post notice of the meeting at least twenty-four hours in advance.

**Receipt of Funds Received:** Upon receipt of funds granted to the Town by gift or bequest, the Board of Selectmen or its designated agent shall, within thirty (30) days of receipt, turn over such funds to the Trustees for appropriate deposit and investment. The Trustees shall acknowledge receipt of funds in writing.

**Receipt of Appropriated Funds:** Funds appropriated by the Town for purposes of establishing or adding to a capital reserve, shall be turned over to the Trustees within thirty (30) days of the commencement of the fiscal year in which the funds were appropriated. The Trustees shall acknowledge receipt of appropriated funds in writing.

**Investment of Funds:** Upon receipt and acknowledgement of funds placed in Trust, the Trustees shall see to the timely deposit and investment of the funds in accordance with an investment policy (as required by RSA 31:25) that shall be reviewed and approved at least annually by the Trustees. For purposes of categorization, funds in trust shall be divided into two generic classes: General Purpose Funds and Capital Reserve Funds.

**General Purpose Funds** which represent bequests, gifts, or funds received in perpetuity shall be invested in bank deposits, governmental debt obligations, stocks, bonds, mutual funds or any other qualified investment for the purpose of long-term capital appreciation and income.

**Capital Reserves Funds,** which represent appropriations by the Town for specific purchase of capital assets, shall be invested in bank deposits, money market funds, or governmental debt obligations, solely for the purpose of capital preservation and liquidity.

**Disbursement of Funds:** The Trustees shall authorize and approve the disbursement of funds from trust upon receipt of a letter of disbursement, signed by the appropriate party, and reviewed and approved by the Board of Selectmen or their designee. The letter shall state the nature and purpose of the disbursement, the amount to be disbursed, the party to receive the disbursement, and the specified fund from which the disbursement is to be made. At least two Trustees shall sign the letter of disbursement, authorizing the release of funds.

**Accounting and Audit:** The Trustees shall maintain and keep such books and records as are necessary and appropriate for the timely and accurate accounting and audit of the Trust Funds. An annual audit of the Funds shall be performed by the Towns auditor for purposes of statutory requirements and the annual Town report.

**Fidelity Bond:** The Trustees acknowledge and accept the fiduciary responsibilities of their elected position. The Town shall provide for coverage of the Trustees under a Fidelity Bond, and appropriate errors and omissions policies as are deemed prudent and necessary to protect the Town's financial interests.

Approved By Trustees: December 4, 2008

  
Peter Bergin

  
Paul Spiess

  
Andrew Pataky